

In the
Indiana Supreme Court



IN THE MATTER OF THE)

APPROVAL OF LOCAL RULES)

FOR ALLEN COUNTY)

Case No. 02S00-1103 -MS- 151

ORDER APPROVING AMENDED LOCAL RULE

The Judges of the Allen Circuit and Superior Courts request the approval of an amended local rule for selection of special judges in civil cases in accordance with Ind. Trial Rule 79(H). Attached to this Order is the proposed amended local rule.

Upon examination of the proposed rule amendment requested by the Allen Circuit and Superior Courts, this Court finds that the proposed rule amendment, LR02-TR 79-01 complies with the requirements of Ind. Trial Rule 79(H), and, accordingly, should be approved and posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rule LR02-TR 79-01 for Allen County Circuit and Superior Courts, set forth as an attachment to this Order, is approved effective immediately. The Clerk of this Court is directed to forward a copy of this Order to the Hon. Thomas J. Felts, Allen Circuit Court, 715 South Calhoun Street, #300, Fort Wayne, IN 46802-1805; the Hon. David Avery, Allen Superior Court, 715 South Calhoun Street, #319, Fort Wayne, IN 46802-1805; the Hon. Nancy Eshcoff Boyer, Allen Superior Court, 715 South Calhoun Street, #325, Fort Wayne, IN 46802-1805; the Hon. Frances C. Gull, Allen Superior Court, 715 South Calhoun Street, #314, Fort Wayne, IN 46802-1805; the Hon. Daniel G. Heath, Allen Superior Court, 715 South Calhoun Street, #316, Fort Wayne, IN 46802-1805; the Hon. Stanley A. Levine, Allen Superior Court, 715 South Calhoun Street, #317, Fort Wayne, IN 46802-1805; the Hon. Charles F. Pratt, Allen Superior Court, 715 South Calhoun Street, #208, Fort Wayne, IN 46802-1805; the Hon. Wendy Davis, Allen Superior Court, 715 South Calhoun Street, #305, Fort Wayne, IN 46802-1805; the Hon. Stephen M. Sims, Allen Superior

Court, 2929 Wells Street, Fort Wayne, IN 46808; the Hon. John F. Surbeck, Jr., Allen Superior Court, 715 South Calhoun Street, #302, Fort Wayne, IN 46802-1805; to the Clerk of the Allen Circuit and Superior Courts; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Allen Circuit and Superior Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 15th day of March, 2011.

RT Shepard

Randall T. Shepard
Chief Justice of Indiana

LR02-TR 79-01 Selection of a Special Judge Pursuant to TR 79(H)
(A) Cases involving a change of judge

CIVIL CASES:

Allen Circuit Court: In the absence of an agreement of the parties selecting a special judge (TR 79(D)), or to have the regular sitting judge appoint a special judge [TR 79(E)], the regular sitting judge shall name a panel pursuant to TR 79(F) from the judges of the Allen Superior Court Civil Division on a rotating basis.

Allen Superior Court: In the absence of an agreement of the parties selecting a special judge [TR 79(D)], or to have the regular sitting judge appoint a special judge [TR 79(E)], the administrative judge of the Allen Superior Court Civil Division shall name a panel pursuant to TR 79(F), consisting of the remaining judges of the Allen Superior Court Civil Division.

If none of the above methods produces a special judge, the Clerk of the Court shall select a special judge (on a rotating basis) from an alphabetical list consisting of the Allen Circuit Court judge and the Allen Superior Court Civil Division judges.

In cases in which no judge is eligible to serve as special judge or the particular circumstances of a case warrants selection of a special judge by the Indiana Supreme Court, the Allen Circuit Court judge (in Allen Circuit Court cases) or the administrative judge of the Allen Superior Court Civil Division (in Allen Superior Court cases) may certify the case to the Indiana Supreme Court for appointment of a special judge.

DOMESTIC RELATIONS:

Allen Circuit Court: Domestic Relations: In domestic relations cases (DR), in the absence of an agreement of the parties selecting a special judge [TR 79(D)], or to have the regular sitting judge appoint a special judge [TR 79(E)], the regular sitting judge in the Allen Circuit Court shall name a panel pursuant to TR 79(F) from the judge and the two magistrates of the Allen Superior Court Family Division who handle the DR cases.

Allen Superior Court: Domestic Relations: In domestic relations cases (DR), in the absence of an agreement of the parties selecting a special judge [TR 79(D)], or to have the administrative judge of that division who handles the DR cases appoint a special judge pursuant to TR 79(E), the administrative judge of the division that handles the DR cases shall name a panel pursuant to TR 79(F) from the judge, the magistrate, and the referee and/or their successors of the Allen Superior Court Family Division that handles the paternity/JP/IVD cases.

If none of the above methods produces a special judge, the Clerk of the Court shall select a special judge (on a rotating basis) from an alphabetical list consisting of the Allen Circuit Court judge, the Allen Circuit Court magistrate, the Allen Superior Court judge of the Allen Superior Court Family Division who handles the DR cases, and the two magistrates of the Allen Superior Court Family Division who handle the DR cases.

In cases in which no judge is eligible to serve as special judge or the particular circumstances of a case warrant selection of a special judge by the Indiana Supreme Court, the Allen Circuit Court judge (in Allen Circuit Court cases), or the administrative judge of the division that handles the DR cases may certify the case to the Indiana Supreme Court for appointment of a special judge.

PATERNITY CASES:

Allen Circuit Court: In all paternity cases, in the absence of an agreement of the parties selecting a special judge [TR 79(D)], or to have the regular sitting judge appoint a special judge [TR 79(E)], the regular sitting judge in Allen Circuit Court shall name a panel pursuant to TR 79(F) from the judge, the magistrate, and the referee and/or their successors of the Allen Superior Court Family Division who handle the paternity/IVD/JP cases.

Allen Superior Court: Paternity Cases: In the absence of an agreement of the parties selecting a special judge [TR 79(D)], or to have the administrative judge of the division that handles the paternity/JP/IVD cases appoint a special judge pursuant to TR 79(E), the administrative judge of the division that handles the paternity/JP/IVD cases shall name a panel pursuant to TR 79(F) from the judge and two magistrates of the Allen Superior Court Family Division who handle the DR cases.

If none of the above methods produces a special judge, the Clerk of the Court shall select a special judge (on a rotating basis) from an alphabetical list consisting of the Allen Circuit Court judge, the Allen Circuit Court hearing officer, the Allen Superior Court judge who handles the paternity/JP/IVD cases, the magistrate and the referee and/or their successors in the Allen Superior Court Family Division who handle the paternity/JP/IVD cases.

In cases in which no judge is eligible to serve as special judge or the particular circumstances of a case warrant selection of a special judge by the Indiana Supreme Court, the administrative judge of the division that handles the paternity/JP/IVD cases in the Allen Superior Court cases, the Circuit Court judge, in the Allen Circuit Court cases, may certify the case to the Indiana Supreme Court for appointment of a special judge.

(B) Cases involving disqualification or recusal of a judge

Allen Circuit and Superior Courts

Civil Cases: In the absence of an agreement of the parties selecting a special judge [TR 79(D)], or to have the regular sitting judge appoint a special judge [TR 79(D)], the clerk of the court shall select a special judge (on a rotating basis) from an alphabetical list consisting of the Allen Circuit court judge, the Allen Superior Court Civil division judges, and persons eligible under TR 79(J) within the administrative district as set for in Administrative Rule 3(A) or who are from a contiguous county outside the administrative district and have agreed to serve as a special judge in the court where the case is pending.

Domestic Relations/Paternity Cases: In the absence of an agreement of the parties selecting a special judge [TR 79(D)], or to have the regular sitting judge appoint a special judge [TR 79(D)], the clerk of the court shall select a special judge (on a rotating basis) from an alphabetical list consisting of the Allen Circuit court judge and magistrates, the Allen Superior Court Family Division judges and magistrates, and persons eligible under TR 79(J) within the administrative district as set for in Administrative Rule 3(A) or who are from a contiguous county outside the administrative district and have agreed to serve as a special judge in the court where the case is pending.

In cases in which no judge is eligible to serve as special judge or the particular circumstances of a case warrants selection of a special judge by the Indiana Supreme Court, the Allen Circuit Court judge (in Allen Circuit Court cases) or the administrative judge of the Allen Superior Court Civil Division (in Allen Superior Court civil cases) or the administrative judge of the Allen Superior Court Family Division (in Allen Superior court family cases) may certify the cases to the Indiana Supreme Court for appointment of a special judge.